

1 UNITED STATES DISTRICT COURT

2 DISTRICT OF NEVADA

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4 XIAO YE BAI,

5 Plaintiff,

6 v.

7 CALVIN JOHNSON, *et al.*,

8 Defendants.

Case No. 2:20-cv-02192-GMN-EJY

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10 **ORDER**

11 **I. DISCUSSION**

12 On December 3, 2020, this Court ordered Plaintiff to file a fully complete application to
13 proceed *in forma pauperis* or pay the full \$402 filing fee on or before February 1, 2021. (ECF No.
14 3). On January 25, 2021, Plaintiff filed a Motion for Reconsideration with respect to the Court's
15 Order requiring him to file a complete *in forma pauperis* application because Plaintiff still had not
16 yet received his financial certificate from prison officials at the High Desert State Prison. (ECF No.
17 6). The Court notes that it continues to receive other completed financial certificates from the High
18 Desert State Prison. Therefore, the Court will construe Plaintiff's Motion for Reconsideration (ECF
19 No. 6) as a motion for extension of time and provide Plaintiff one final opportunity to provide a
20 complete application to proceed *in forma pauperis*. Plaintiff shall file a fully complete application
21 to proceed *in forma pauperis* or pay the full \$402 filing fee on or before **April 2, 2021**. Absent
22 unusual circumstances, no further extensions will be granted.

23 In the event Plaintiff has difficulty obtaining his financial certificate from prison officials,
24 Plaintiff shall file a declaration describing Plaintiff's efforts to obtain a financial certificate.
25 Plaintiff's declaration must demonstrate he has done all that he could to acquire the financial
26 certificate by the Court's deadline. Specifically, Plaintiff must explain when he requested the
27 financial certificate, with whom he spoke regarding the status of the certificate, with whom he
28 followed up, and the responses, if any, he received. Plaintiff's declaration should include dates of
his requests, dates of his follow-up requests, names of the prison officials that he spoke to or

1 attempted to speak to, and the responses he received, if any. If Plaintiff's declaration demonstrates
 2 that he has done all that was possible to acquire the financial certificate, the Court will consider his
 3 application to proceed *in forma pauperis* complete.¹

4 The Court will retain Plaintiff's civil rights complaint (ECF No. 1-1), but the Court will not
 5 file the complaint unless and until Plaintiff timely files a fully complete application to proceed *in*
 6 *forma pauperis* with all three documents or pays the full \$402 filing fee.

7 **II. CONCLUSION**

8 IT IS HEREBY ORDERED that Plaintiff's Motion for Reconsideration (ECF No. 6) is
 9 construed as a motion for extension of time and is GRANTED.

10 IT IS FURTHER ORDERED that the Clerk of the Court shall send Plaintiff the approved
 11 form application to proceed *in forma pauperis* by an inmate, as well as the document entitled
 12 information and instructions for filing an *in forma pauperis* application.

13 IT IS FURTHER ORDERED that Plaintiff shall have a one time extension of time to **April**
 14 **2, 2021**, in which Plaintiff shall either pay the full \$402 filing fee for a civil action (which includes
 15 the \$350 filing fee and the \$52 administrative fee) or file with the Court:

- 16 (1) a completed **Application to Proceed in Forma Pauperis for Inmate** on this Court's
 17 approved form (i.e. pages 1 through 3 with the inmate's two signatures on page 3),
- 18 (2) a **Financial Certificate** properly signed by both the inmate and a prison or jail official
 19 (i.e. page 4 of this Court's approved form), and
- 20 (3) a copy of the **inmate's prison or jail trust fund account statement for the previous**
 21 **six-month period**.

22 In the alternative, Plaintiff may file the first three pages of the application to proceed *in forma*
 23 *pauperis* together with a declaration detailing the efforts he took to acquire a financial certificate
 24 from prison officials. Absent unusual circumstances, the Court will not grant any further extensions
 25 of time.

26 _____
 27 ¹ Plaintiff must still submit the first three pages of the application to proceed *in forma pauperis* on this Court's
 28 approved form with his declaration. If Plaintiff does not submit the first three pages of the application to proceed *in*
forma pauperis with the declaration, the Court will recommend dismissal of the case without prejudice for Plaintiff to
 open a new case when he is able to acquire the required documents.

1 IT IS FURTHER ORDERED that, if Plaintiff does not file a fully complete application to
2 proceed *in forma pauperis* with all three documents, or the first three pages of the application to
3 proceed *in forma pauperis* and a declaration detailing the efforts he took to acquire his financial
4 certificate from prison officials, or pay the full \$402 filing fee for a civil action on or before **April**
5 **2, 2021**, the Court will recommend this case be dismissed without prejudice for Plaintiff to refile
6 the case with the Court, under a new case number, when Plaintiff has all three documents needed to
7 file a fully complete application to proceed *in forma pauperis* or pays the full \$402 filing fee.

8 IT IS FURTHER ORDERED that the Clerk of the Court shall retain the complaint (ECF
9 No.1-1), but the Court will not file the complaint unless and until Plaintiff timely files a fully
10 complete application to proceed *in forma pauperis* with all three documents or pays the full \$402
11 filing fee.

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13 Dated this 1st day of March, 2021

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16 Elayna J. Youchah
17 UNITED STATES MAGISTRATE JUDGE

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